

GOP Health Care Bill Called Proxy for Discrimination

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While Senate Majority Leader Mitch McConnell scrambles to secure the votes he will need to pass the Senate's health care bill as early as next week, experts weighed-in Friday on how it could affect provisions of the Affordable Care Act that expanded coverage for more Americans.

The Senate bill, called the Better Care Reconciliation Act of 2017, on its face keeps the Affordable Care Act's requirement to cover those with preexisting conditions.

A GOP Senate staffer said Thursday that states could "absolutely not, categorically not, completely not" waive requirements for insurers to cover them under the new bill.

However, former Medicaid official Eliot Fishman called that assertion false for several reasons.

Fishman, now the health policy director for nonpartisan health advocacy group Families USA, said the bill would allow insurers to charge older people more for their coverage, something they are not allowed to do under the ACA. At the same time, the Senate bill reduces premium assistance for them.

"That's just a proxy for discriminating against people with preexisting conditions," Fishman said in an interview.

The Senate bill also allows states to waive essential health benefits, which they are required to cover now under the ACA. That could also limit coverage to those with preexisting conditions.

Those benefits include emergency services and hospitalization, but also maternity and mental health care, substance abuse treatment, prescription drugs, rehabilitative and laboratory services, chronic disease management and pediatric services.

Fishman said that in states that waive essential health benefits, insurers that don't want to cover preexisting conditions that fall within them could then opt out of covering them.

"If there's anything that we learned from the way the individual markets worked before the Affordable Care Act, it's that the pressures on insurers are so intense to avoid people with preexisting conditions, if there's a way for them to do it they will take advantage of it," Fishman said.

"It's not because they're evil, it's because it's financial suicide for them not to if they're allowed to," he added. "And if they don't, everyone else will and they will be stuck with all those high costs."

Under the Senate's plan, Fishman also believes that premium costs will rise and quality of insurance plans will drop.

Under the ACA's subsidized plans, out of pocket costs for patients can't exceed more than 30 percent of an insurance premium. But the Senate bill would leave individuals responsible for covering 42 percent of their costs through a combination of premiums, deductibles and co-pays.

The Senate bill would also eliminate the ACA's cost sharing subsidies in 2019, which are federal payments made to insurers to cover the costs associated with offering plans with significantly lower deductibles to low and middle income people.

More than half of policyholders on the ACA exchanges benefit from reduced deductibles and co-pays because of cost sharing subsidies. While the Senate bill would allocate funds for them for two more years, consumers will feel a burden once they go away.

"Not only are the overall out of pocket costs going up, but the source of government assistance to help people deal with those out of pockets costs is now going away," Fishman said.

"Even if premiums go down for people who are young and relatively low income, I'm not sure they're going to want to pay any premium for what is a very high deductible product with no cost sharing assistance," he said.

Dr. Geoffrey Joyce, director of health policy at the Schaeffer Center at the University of Southern California School of Pharmacy, said the tax credits proposed by the Senate bill would disproportionately favor young people.

"It's basically free to them," Joyce said in an interview. "The subsidies under Obamacare were more generous to older and sicker people. The new legislation is more generous to younger, healthier people."

This is going to lead to the most vulnerable people being uninsured, he said.

That will be compounded by the ways in which the Senate bill would alter the Medicaid system, which Republicans have tried to downplay.

During the campaign, then-candidate Donald Trump promised not to touch Medicaid.

"They can spin it however they want but anyone who looks at the numbers and looks at the details of this legislation says, 'of course you're cutting this program,'" Joyce said of Medicaid, adding that Trump had absolutely reneged on his promise to leave Medicaid alone.

Right now, the federal government matches state spending for anyone who qualifies.

Both bills, however, propose switching Medicaid to block grants or a per capita cap system, where states will receive a lump sum of money for Medicaid from the federal government.

Both bills also would eliminate the Medicaid expansion, which now covers 11 million people. But Fishman with Families USA said the Senate bill proposes steeper cuts to Medicaid than the House bill did.

The Congressional Budget Office estimated that the House bill would impose \$839 billion in cuts to Medicaid over 10 years, cutting the program by 25 percent by 2026.

The Senate bill keeps those cuts in place until 2023 but would move to larger cuts in the per capita formula the next year.

“It’s really very dramatic and underreported what a big deal this is for Medicaid,” Fishman said.

That drama will crescendo, Fishman said, when those federal cuts kick in. That will coincide with a “tsunami of long-term costs for state Medicaid programs” as baby boomers enter their 80s and start needing nursing home care.

While acknowledging that unknowns remain about restructuring Medicaid, which has operated as is since 1965, Fishman said there are several ways it could go.

One option is that states could reduce eligibility for benefits.

“People will be having to choose between taking care of their family member or continuing to work,” Fishman said. “Siblings will be having to figure out between them who is going to stop working or otherwise disrupt their lives to take care of mom or dad.”

The other option, not mutually exclusive to the first, is that states will cut back on the rates they pay nursing homes and home care providers.

“That is going to significantly impact the safety and quality of the care that they deliver,” Fishman said.

Others, however, are less pessimistic about the long-term impact of restructuring Medicaid. Michael Cannon, director of health policy studies at the libertarian think tank Cato Institute, thinks the Senate bill would actually expand entitlements like Medicaid under the ACA.

“This is not repeal. In fact it expands the ACA in significant respects,” Cannon said, echoing Sen. Rand Paul, R-Ky., who called the Senate bill “Obamacare lite.”

“It’s a bill written to cut Obamacare’s taxes and to pretend that it is repealing other parts of the law in order to try to placate the Republican base that wants that, even though it doesn’t do that at all,” he added.

Cannon explained in an interview that the Senate bill would restrict eligibility for the exchange subsidies, eliminating eligibility for people between 350 and 400 percent of the federal poverty level.

But, unlike the ACA it would open those subsidies up to everyone below 100 percent of the federal poverty level. That could extend coverage to those left uninsured in states that did not expand Medicaid.

That amounts to a “backdoor Medicaid expansion,” Cannon said.

“It expands that entitlement under the ACA, and it expands it in a way that really snubs the states that did the right thing by not expanding the Medicaid programs,” he said.

Parting ways with the CBO, which estimated that the House bill would leave 23 million uninsured, Cannon said the switch would actually incentivize states to enroll more people in Medicaid.

“It creates enormous incentives for everyone in the states to focus on increasing enrollment, which is a structural change to Medicaid that is going to expand the constituency for higher Medicaid spending,” Cannon said.

“That’s how they increase their cap and preserve their entitlement to matching federal dollars,” he added.

Cannon also expressed doubt that the proposed cuts to Medicaid, including phasing out the Medicaid expansion, would ever take effect.

“There are going to be three Congresses that take their seats between now and 2024. And at least one of them – and probably all of them – are going to be more Democratic than the current Congress,” he said.

This will provide ample opportunity to reverse course on phasing out the Medicaid expansion, he said.

For Cannon, the Senate health bill is more about a political victory than fixing health care.

“They’re just trying to give Donald Trump a win at this point, because they’re certainly not trying to get the health policy right or make health care more affordable or do anything like that.”

In his estimation, premiums will rise under the Senate plan, possibly more rapidly than if Congress would leave the ACA in place, untouched.

“And that will come back to haunt Republicans in the 2018 mid terms and maybe even beyond and give us one of those Democratic Congresses that I figure will show up to undo the repeal of the Medicaid expansion, the reductions in the rate of growth of Medicaid spending, and so forth,” he said.

Joyce, with the University of Southern California School of Pharmacy, agreed with Cannon that Republican efforts to repeal and replace the Affordable Care Act is more about trying to score a political victory.

“To be honest with you, Donald Trump doesn’t know a lot about health care, doesn’t care a lot about health care – this is imply just a political loss or win for him. And he wants a win,” Joyce said.

Joyce opposes both the Senate and House bills, and says it would be preferable to tweak the ACA to make it work better.

However, he said he sees a silver lining to Republican efforts to give more power back to the states.

“Let 50 states try different ways of managing their poor and their sick. And you know what, some states may stumble but we may learn,” he said. “All it takes is one state to do something

really smart and innovative and it could be a model and be copied – there’s something to say for that.”